

EXHIBIT 1

INTRODUCTION

Respondent Jim Rosecrans was a member of the governing board of the Butte Valley Resource Conservation District for the County of Siskiyou (the "County"). He assumed office on October 20, 1998, and served on the Butte Valley Resource Conservation District until February 27, 2004. As a member of the Butte Valley Resource Conservation District, Respondent was a designated employee of the County, as defined in section 82019, subdivision (c) of the Political Reform Act (the "Act"),¹ and in the County's conflict of interest code.

Under the Act and the conflict of interest code for the County, each designated employee of the County is required to file an annual statement of economic interests by April 1st of each year, unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day.² On the statement of economic interests, the designated employee must disclose his or her reportable economic interests held during the preceding calendar year.

For purposes of this Default Decision and Order, Respondent's violations of the Act are stated as follows:

COUNT 1: As a designated employee of the County of Siskiyou, Respondent Jim Rosecrans failed to file a 2001 annual statement of economic interests by April 2, 2002, in violation of section 87300 of the Government Code.

COUNT 2: As a designated employee of the County of Siskiyou, Respondent Jim Rosecrans failed to file a 2002 annual statement of economic interests by April 1, 2003, in violation of section 87300 of the Government Code.

STATEMENT OF THE CASE

An enforcement action was initiated against Respondent Jim Rosecrans with a Report in Support of a Finding of Probable Cause being served on Respondent by certified mail and regular mail on December 4, 2003. Along with the Report in Support of a Finding of Probable Cause, Respondent was served with documents explaining the administrative enforcement process and informing him that he had 21 days in which to request a probable cause conference with the Executive Director of the Fair Political Practices Commission (the "FPPC"), and to file a written response to the probable cause report, to present any defenses that he may have.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

² Regulation 18116.

Respondent did not request a probable cause conference or file a written response to the probable cause report. On February 11, 2004, Executive Director Mark Krausse issued an Order Finding Probable Cause as to each of the two counts alleged in the probable cause report. On February 18, 2004, the Order Finding Probable Cause was served on Respondent by mail.

On June 23, 2004, Respondent was personally served with an Accusation in this matter. Along with the Accusation, Respondent was served with a "Statement to Respondent," which explains the statutory requirement that Respondent must return a Notice of Defense within 15 days or else he will have waived his right to a hearing. Also served on Respondent were two copies of the Notice of Defense form, a copy of the Order Finding Probable Cause, and copies of the relevant portions of the Act.

Respondent did not file a Notice of Defense within the fifteen-day response period, and the Enforcement Division has not received any communication from Respondent since he was served with the accusation, or at any other time in this matter.

THE ADMINISTRATIVE PROCEDURE ACT

Pursuant to the California Administrative Procedure Act (the "APA")³, a respondent is entitled to a hearing on the merits of an Accusation if the respondent files a Notice of Defense within 15 days after service of the Accusation. (Section 11506.) The APA further provides that a respondent's failure to file a Notice of Defense within 15 days after service of an Accusation constitutes a waiver of the respondent's right to a hearing. (Section 11506, subdivision (c).) A default decision may be issued if the respondent fails to file a Notice of Defense within 15 days of service of the Accusation (Section 11520, subdivision (a).)

On June 23, 2004, an Accusation in this matter was personally served on Respondent. Proof of service of the Accusation is attached hereto as Attachment A. Along with the Accusation, the Enforcement Division served Respondent with a "Statement to Respondent," which notified him that he could request a hearing on the merits and warned him that, unless he filed a Notice of Defense within fifteen days of service of the Accusation, he would be deemed to have waived his right to a hearing. Respondent has failed to file a Notice of Defense.

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in section 81002, subdivision (c), is to ensure that the assets and income of public officials, that may be materially affected by their official actions, be disclosed, so that conflicts of interest may be avoided.

In furtherance of this purpose, section 87300 requires every agency to adopt and promulgate a conflict of interest code. Section 87302, subdivision (a) provides that an agency's conflict of interest code must specifically designate the employees of the agency who are required to file statements of economic interests, disclosing their reportable investments, business positions, interests in real property, and sources of income. Under section 82019,

³ The California Administrative Procedure Act is contained in Government Code sections 11370 through 11529.

subdivision (c), and section 87302, subdivision (a), the persons who are to be designated in an agency's conflict of interest code are the officers, employees, members, and consultants of the agency, whose position with the agency entails making, or participating in making, governmental decisions that may foreseeably have a material effect on one or more of the person's economic interests.

Section 87302, subdivision (b) provides that an agency's conflict of interest code must require each designated employee to file an annual statement of economic interests, for each year that the employee remains in office, at a time specified in the agency's conflict of interest code, disclosing his or her reportable economic interests held during the preceding calendar year.

Under section 87300, the requirements of an agency's conflict of interests code shall have the force of law, and any violation of those requirements shall be deemed a violation of the Act.

SUMMARY OF THE FACTS

According to records maintained by the County of Siskiyou, Respondent assumed office as a member of the governing board of the Butte Valley Resource Conservation District on October 20, 1998, and served on the governing board of the Butte Valley Resource Conservation District until February 27, 2004.

At all relevant times to this matter, Respondent was a member of the governing board of the Butte Valley Resource Conservation District for Siskiyou County.

COUNT 1

Failure to Timely File a 2001 Annual Statement of Economic Interests

Under the provisions of the County's conflict of interest code, a member of the governing board of the Butte Valley Resource Conservation District is a designated employee of the County, and therefore required to file an annual statement of economic interests for each year that he or she remains in office, by April 1st of the following year, unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day.⁴ As such, Respondent Jim Rosecrans was required to file a 2001 annual statement of economic interests by April 2, 2002, because April 1st fell on a holiday that year.

According to records maintained by the County, Respondent failed to file a 2001 annual statement of economic interests by the April 2, 2002 due date.

On April 9, 2002, Terri Rowan, the Elections Assistant for the County, sent a letter to Respondent informing him that his 2001 annual statement of economic interests was past due, and asking him to file the statement within 30 days.

On July 22, 2002, Ms. Rowan sent another letter to Respondent, advising him that his

⁴ Regulation 18116.

2001 annual statement of economic interests remained was past due. The letter further advised Respondent that the matter would be referred to the appropriate enforcement authority, if the delinquent statement was not received within ten days.

When the statement was not filed in response to her written notices, Ms. Rowan referred the matter to the Enforcement Division of the FPPC.

According to investigative records maintained by the FPPC, on September 12, 2002, Mary Ann Kvasager, the SEI Coordinator for the Enforcement Division, attempted to contact Respondent by telephone at his home. Ms. Kvasager informed the woman who answered the telephone that it was very important that she speak to Respondent about his delinquent statement of economic interests. Respondent was present, but would not come to the telephone, so Ms. Kvasager explained to the woman that Respondent must immediately file his 2001 annual statement of economic interests. While talking to Ms. Kvasager, the woman told the Respondent "it's about those forms again." Ms. Kvasager then heard the Respondent say "tell them it's on it's way." The woman repeated that comment back to Ms. Kvasager, who again asked to speak directly with the Respondent. The woman told Ms. Kvasager that they were too busy right now, and hung up the telephone.

Records maintained by the County establish that Respondent filed his 2001 annual statement of economic interests on February 27, 2004, almost two years after the due date.

By failing to file a 2001 annual statement of economic interests by the April 2, 2002 due date, Respondent violated section 87300.

COUNT 2

Failure to Timely File a 2002 Annual Statement of Economic Interests

Under the provisions of the County's conflict of interest code, a member of the governing board of the Butte valley Resource Conservation District is a designated employee of the County, and therefore required to file an annual statement of economic interests for each year that he or she remains in office, by April 1st of the following year, unless April 1st falls on a Saturday, Sunday, or official holiday, in which case the filing deadline is extended to the next regular business day.⁵ As such, Respondent Jim Rosecrans was required to file a 2002 annual statement of economic interests by April 1, 2003.

According to filing records maintained by the County, Respondent failed to file a 2002 annual statement of economic interest by the April 1, 2003 due date.

On November 14, 2003, Shellee Mittan, Deputy County Clerk, sent a letter to Respondent, informing him that his 2002 annual statement of economic interests was past due, and asking him to file the statement within 30 days.

According to filing records maintained by the County Clerk's office, Respondent filed

⁵ Regulation 18116.

a 2002 annual statement of economic interests February 27, 2004, more than ten months after the due date.

By failing to file a 2002 annual statement of economic interests by the April 1, 2003 due date, Respondent violated section 87300.

CONCLUSION

This matter consists of two counts of violating section 87300, which carries a maximum administrative penalty of Ten Thousand Dollars (\$10,000). Because Respondent failed to promptly file his delinquent statements, and failed to respond to the Enforcement Division's attempts at early resolution, this matter was not handled under the SEI Expedited Procedures adopted by the FPPC in July 1999.

The administrative penalty for SEI filing violations resolved outside of the SEI Expedited Procedures program historically has been determined on a case-by-case basis, considering the aggravating and mitigating factors present.

In this case, Respondent did not file his delinquent statements until after the Enforcement Division initiated proceedings against him by serving him with a Report in Support of Probable Cause. Furthermore, Respondent failed to respond to any of the Enforcement Division's attempts to resolve the matter. Therefore, a penalty that reflects the aggravating factors of the case, as well as the lengthy delay in securing Respondent's compliance with the Act, is appropriate.

Accordingly, the facts of this case justify imposition of an administrative penalty of One Thousand Five Hundred Dollars (\$1,500) for each violation, for a total penalty of Three Thousand Dollars (\$3,000).